IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO.759 (MS) OF 2006

Sumit Srivastava,
S/o Sri Guru Saran Lal Srivastava,
Through next friend and natural guardian,
Sri Guru Saran Lal Srivastava,
S/o late Ram Swaroop Srivastava,
C/o Sri P.N. Pandey, 18/319,
Heera Nagar, Near Niravan Hospital,
Haldwani, District Nainital. .....Petitioner.

Versus

1. Uttaranchal Shiksha Avam Priksha Parisahd Ramnagar District Nainital, through its Secretary.
2. Secretary, Uttaranchal Shiksha Avam Pariksha Parishad, Ramnagar, District Nainital. .....Respondents.

Dated: 19.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Sarvesh Agarwal, Advocate for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to re-check, re-evaluate and scrutinize the examination copies of the petitioner in Hindi (Ist paper), Social Science (IInd paper) and Drawing of the High School Examination, 2006 by some expert examiner in presence of the petitioner and his parents

and direct the respondents to correct the mark sheet of the petitioner.

Briefly stated, the petitioner appeared in the High School Examination, 2006 as a regular candidate with subject of Hindi, English, Mathematics, Science, Social Science and Drawing with Roll No. 0123506 from Har Govind Suyal Saraswati Vidya Mandir, Kusumkhera, Haldwani, District-Nainital.

According to the case of the petitioner, he appeared in all the papers and answered all the papers with his full satisfaction. The petitioner had been a brilliant student and had every hope that he will get good marks in every subject.

However, the result was declared in June, 2006 and the petitioner was declared passed with Ist division and honours in the said examination. The petitioner had got second position State Scholarship Examination conducted by the respondent in 2004.

The grievance of the petitioner is that he secured lesser marks in Hindi (Ist Paper), Social Science (IInd paper) and Drawing.

So far as the evaluation is concerned, there is no provision for evaluation for evaluation the marks and as such no relief can be granted to the petitioner.

So far as the scrutiny is concerned, the petitioner has submitted that let the scrutiny be made of the answer book of Chemistry-Ist Paper.

Sri V.K. Bisht, Sr. Advocate, has submitted that let the petitioner apply for scrutiny and the same shall be done by the Secretary Uttaranchal Shiksha Evam Pariksha/respondent no. 2 or an expert examiner by 15th August, 2006.

In ***Vaibhav Pandey v. Board of High School and Intermediate Education (1998)2 U.P.L.B.E.C. 1501,*** it has been held as under:-

"2.The past record of the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner indicates that he is an exceptionally brilliant student. In High School examination, the petitioner has been awarded 19 marks out of 32 in Hindi 3rd papers. The petitioner has been awarded much higher marks in other subjects. The apprehension of the petitioner is that his answer book of Hindia IIIrd has not been correctly examined.

3. This writ petition is finally disposed of with the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which had been allotted to the petitioner is 1064476."

The aforesaid judgment has also been followed in Trishma Singh vs. U.P. Intermediate Education Board Allahabad, 2001 U.P. Local Bodies Cases 2071. Paragraph-7 of the judgment is important which is quoted below:-

"Learned counsel, for the petitioner has placed reliance on the case of Vaibhav Pandey v. Board of High School &

Intermediate Education (1988) 2 UPLBEC 1501, in which this Court held as under:

> *This writ petition is finally disposed of which the direction that respondent No.2 Apar Sachiv, Madhyamik Shiksha Parishad shall himself check the answer book of the petitioner in Hindi IIIrd paper of High School Examination, 1998 within a period of one month from the date a certified copy of this order is produced before him. On the date on which the answer book of the petitioner is being looked or examined by respondent No.2, the petitioner's guardian may also remain present. If any discrepancy is found in the answer book, it shall be corrected. The roll number which has been allotted to the petitioner is 1064476."*

It has further been held by Allahabad High Court in the case ***Mobeen Ahmad Ansari vs. State of U.P. and others (1999) 1 UPLBEC 603*** as under:

"It is a matter of great concern that in recent years there is consideration influx of such writ petitions in this Court has increased. Earlier the Board of High School and Intermediate Education had inspired so much confidence that seldom writ-petition were filed. Filing of writ petition on such a large scale before this Court indicate that there is considerable dissatisfaction among the students and their parent which requires introspection by the Board authorities as well. Although this Court seldom interfere in the revaluation of the marks, but with a view to have grater accountability and transparency there is a need for framing some certain rules t0 rectify the error, mistakes or defection calculation of the marks."

Thus, the respondent no.2 is directed to get the scrutiny done of the answer book within a period of six weeks from the

date of production of the certified copy of the order in accordance with the aforesaid judgments of the Allahabad High Court, where it has been held that there should be transparency of the marks and the petitioner may not be deprived from his legitimate claim.

Respondent no.2 is directed to get the scrutiny done after the petitioner applies for the same.

With petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

19.06.2006
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